

Merits Panel
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Filed May 5, 2006

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2 UNITED STATES PATENT AND TRADEMARK OFFICE
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5 BEFORE THE BOARD OF PATENT APPEALS
6 AND INTERFERENCES
7 (Administrative Patent Judge James T. Moore)
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10 ANTHONY CORNELIUS O'SULLIVAN,
11 LAURENZ GSELL, RUDOLF NAEF,
12 MARCEL SENN, THOMAS PITTERNA, and
13 DAVID JOHN WADSWORTH,
14 Junior Party
15 (Application 09/091,333),
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17 v.
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19 UDO KRAATZ
20 Senior Party
21 (Patent 5,679,796).
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24 Patent Interference No. 105,277
25 (Technology Center 1600)
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29 **Judgment - Request for Adverse - Bd. R. 127(b)**
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31 Before LANE, TIERNEY, and MOORE, Administrative Patent Judges.

32 MOORE, Administrative Patent Judge.

33 The application and patent involved in this interference have become commonly
34 owned. (Paper 34, page 2 and Paper 37). Accordingly, the Board required the

1 common owner, Syngenta Crop Protection, Inc. to investigate and determine the prior
2 inventors as between O'Sullivan and Kraatz. (Paper 34).

3 Syngenta has determined that O'Sullivan was the first to invent the subject
4 matter of the count and requests adverse judgment as regards to Kraatz. (Paper 38).

5 Upon consideration of the Request for Adverse Judgment, it is hereby:

6 **ORDERED** that judgment on priority as to Count 1 the sole count in this
7 interference (Paper 1, page 4) is awarded against Senior Party Udo Kraatz.

8 **FURTHER ORDERED** that Senior Party Udo Kraatz is not entitled to a patent
9 containing Kraatz claim 1 (corresponding to Count 1).

10 **FURTHER ORDERED** that a copy of this paper shall be made of record in files
11 of application 09/091,333 and patent 5,679,796.

12 **FURTHER ORDERED** that the parties shall direct attention to 35 U.S.C. § 135(c)
13 and 37 CFR § 41.205(a) regarding the filing of settlement agreements.

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15 /Sally Gardner Lane/
16 ADMINISTRATIVE PATENT JUDGE

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19 /Michael P. Tierney/
20 ADMINISTRATIVE PATENT JUDGE

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23 /James T. Moore/
24 ADMINISTRATIVE PATENT JUDGE
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) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES

1 cc (via email)

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